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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/604,097	06/27/2000	Yukio Shakuda	2005.0020003	6648
26111	7590	09/10/2004	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			NGUYEN, TUAN N	
			ART UNIT	PAPER NUMBER
			2828	

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/604,097

Applicant(s)

SHAKUDA, YUKIO

Examiner

Tuan N Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/27/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 14, 16, 18, 20, 21 and 53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 14, 16, 18, 20, 21, 53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/2/04; 11/4/03; 10/29/03; 11/18/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

IDS

1. Applicant requires to submit the IDS filed 6/27/00, 8/28/02, 10/15/02 in 1449 format, other IDS filed have been reviewed, see attached file. Acknowledgment is made of applicant's claim for foreign priority, however, that applicant has not filed a certified copy of the application or translation within the current working file as required by 35 U.S.C. 119(b).

Drawings

2. Acknowledge the formal drawings were received on 06/27/2000, and it has been accepted.

Response to Amendment

3. In respond to applicant's amendment filed 06/15/2004, claim 13 has been amended, and claims 1-12, 15, 17, 19, 22-52 have been canceled. Claims 13, 14, 16, 18, 20, 21, and 53 are pending.

Double Patenting

4. Claims 13, 14, 16, 18, 20, 21, and 53 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of Patent US 6084899, and claims 1-23 of patent US 6115399. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims reciting a semiconductor light emitting device and manufacturing method thereof, comprising: an electrode, a substrate, a buffer region includes elements In, Ga, N, and gallium nitride forming a light emitting portion including at least an n-type and a p-type layer where the band gap energy

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of the p-type layer is greater than the n-type layer; In addition, claims 1-45 of Patent US 6084899, and claims 1-23 of patent US 6115399 disclosed the conductivity of the first layer is greater than the conductivity of the second layer which has high resistance, and a contact layer consists of essentially GaN.

The claims reciting similar structure and method of making are disclosed in each application specification, therefore application current claims 13, 14, 16, 18, 20, 21, 53, and claims 1-45 of patent US 6084899, and claims 1-23 of patent US 6115399 are considered as the obviousness-type double patenting.

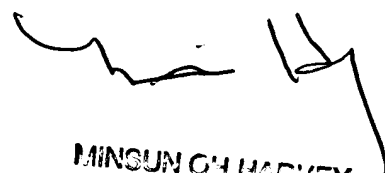
Communication Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N Nguyen whose telephone number is (571) 272-1948. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harvey Minsun can be reached on (703) 308-16741. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.

Tuan N. Nguyen



MINSUN OH HARVEY
PRIMARY EXAMINER